



TPN

ATTORNEY'S DOCKET NO.: S1022.80602US00

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David SMITH
Serial No.: 09/769,004
Filed: January 24, 2001
For: DESIGN FLOW CHECKER

Examiner: Baoquoc N. To
Art Unit: 2172 Confirmation No. 3814

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW A HOLDING OF ABANDONMENT
UNDER 37 CFR 1.181(a)

Sir:

Applicant respectfully petitions that the Holding of Abandonment for the above-identified application be withdrawn. This Petition for Withdrawal of Notice of Abandonment is responsive to the Notice of Abandonment mailed from the Patent Office on May 20, 2005. The Notice indicates that the application is abandoned in view of Applicant's failure to respond to the Final Office Action mailed from the Patent Office on June 29, 2004.

BACKGROUND

Applicant received an Office Action mailed from the Patent Office on December 3, 2003 and filed an Amendment to the application on April 5, 2004. Having received no further Office Action from the Patent Office responsive to this Amendment, Applicant filed a Status Inquiry on January 18, 2005.

Applicant received a Notice of Abandonment mailed from the Patent Office May 20, 2005 for failure to respond to a Final Office Action mailed from the Patent Office on June 29, 2004. Applicant respectfully disagrees with the abandonment on the basis that the Office Action mailed from the Patent Office on June 29, 2004 was returned to the Patent Office on July 16, 2004.

Thus, it should be obvious that Applicant did not receive the Office Action. The undersigned verifies that he has searched the file jacket and the docket log of the application to confirm that, in fact, no Office Action was received.

Applicant's Status Inquiry of January 18, 2005, received in the Patent Office on January 1, 2005, was never responded to, Applicant was not informed at that time that an Office Action had been sent and returned to the Patent Office.

The above-identified application is being held abandoned in view of the Applicants failure to respond to the Office Action stated to have been mailed on June 29, 2004.

In support of Applicant's contention that this application should not be abandoned, Applicant encloses a highlighted copy of a PAIR printout showing the date of the: 1) mailing of the Final Office Action, 2) mail returned to the Patent Office; 3) Applicant's Status Inquiry, 4) a docket log for this application and 4) the Notice of Abandonment. It appears in the printout of the envelope returned to the Patent Office that the address was not showing through the window which would account for the failure of the Postal Service to deliver the envelope and instead return it to the Patent Office.

Applicable Rules and Procedures

MPEP § 711.03(c) sets forth the requirements for a Petition to Withdraw Holding of Abandonment based on the failure to reply within period. MPEP § 711.03(c) states in part that:

"Where an applicant contends that the application is not in fact abandoned (e.g., there is a disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. "

MPEP § 711.03(c) also sets forth the requirements for showing required to support a Petition to Withdraw Holding of Abandonment based on the failure to receive an Office. MPEP §711.03(c) states in part that:

"The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must

be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action."

The Holding of Abandonment Should be Withdrawn

Applicant has complied with the requirements for making a successful petition to withdraw the holding of abandonment. Thus, the Petition to Withdraw the Holding of Abandonment should be granted.

Clearly the Final Office Action was not received by Applicant, therefore Applicant could not respond and under the circumstances the application should not be abandoned.

Applicant respectfully requests that the Office Action identified and any related papers be re-mailed to the undersigned attorney so that Applicant can have the opportunity to respond.

If it is determined, after reviewing the petition, that this petition should not be granted for some reason, the Petitions Office is respectfully requested to call Applicants' representative at the number listed below.

No check is enclosed. However, if it is determined that a fee is necessary, the fee may be charged to the account of the undersigned, Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 3, 2005.

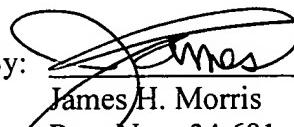


Attorney Docket No.: S1022.80602US00
X06/20/05

Respectfully submitted,

David Smith, Applicant

By:


James H. Morris

Reg. No.: 34,681

WOLF, GREENFIELD & SACKS, P.C.

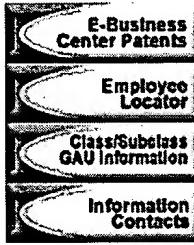
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NEW

This application is officially maintained in electronic form. To View: Click the desired Document Description link below the desired document(s) and click Download.

Mail Room Date	Document Description	Document Category
05/20/2005	Abandonment	PROSECUTION
01/21/2005	Miscellaneous Incoming Letter	PROSECUTION
07/16/2004	Mail returned to USPTO as undelivered	PROSECUTION
06/29/2004	Final Rejection	PROSECUTION
06/23/2004	Examiner's search strategy and results	PROSECUTION
04/12/2004	Fee Worksheet (PTO-875)	PROSECUTION
04/12/2004	Amendment - After Non-Final Rejection	PROSECUTION
04/12/2004	Transmittal letter	PROSECUTION
04/12/2004	Applicant Arguments or Remarks Made in an Amendment	PROSECUTION
04/12/2004	Extension of Time	PROSECUTION
04/12/2004	Claims	PROSECUTION
12/03/2003	Non-Final Rejection	PROSECUTION
12/01/2003	Examiner's search strategy and results	PROSECUTION
09/03/2003	Extension of Time	PROSECUTION
09/03/2003	Miscellaneous Incoming Letter	PROSECUTION
09/03/2003	Applicant Arguments or Remarks Made in an Amendment	PROSECUTION
09/03/2003	Claims	PROSECUTION
09/03/2003	Specification	PROSECUTION
09/03/2003	Amendment - After Non-Final Rejection	PROSECUTION
04/28/2003	Extension of Time	PROSECUTION
04/28/2003	Transmittal letter	PROSECUTION
04/28/2003	Applicant Arguments or Remarks Made in an Amendment	PROSECUTION
04/28/2003	Claims	PROSECUTION

04/28/2003	<u>Specification</u>	PROSECUTION
04/28/2003	<u>Amendment - After Non-Final Rejection</u>	PROSECUTION
12/20/2002	<u>List of References cited by applicant and considered by examiner</u>	PRIOR ART
12/20/2002	<u>List of references cited by examiner</u>	PRIOR ART
12/20/2002	<u>Non-Final Rejection</u>	PROSECUTION
12/12/2002	<u>Examiner's search strategy and results</u>	PROSECUTION
04/05/2001	<u>Drawings</u>	AS FILED
04/05/2001	<u>Oath or Declaration filed</u>	PROSECUTION
04/05/2001	<u>Drawings</u>	PROSECUTION
04/05/2001	<u>Applicant Response to Pre-Exam Formalities Notice</u>	PROSECUTION
04/05/2001	<u>Foreign Priority Papers Filed</u>	PROSECUTION
03/09/2001	<u>Pre-Exam Formalities Notice</u>	PROSECUTION
01/24/2001	<u>Claims</u>	PROSECUTION
01/24/2001	<u>Amendment - After Non-Final Rejection</u>	PROSECUTION
01/24/2001	<u>NPL Documents</u>	PRIOR ART
01/24/2001	<u>Information Disclosure Statement (IDS) Filed</u>	PROSECUTION
01/24/2001	<u>Fee Worksheet (PTO-875)</u>	PROSECUTION
01/24/2001	<u>Abstract</u>	PROSECUTION
01/24/2001	<u>Claims</u>	PROSECUTION
01/24/2001	<u>Specification</u>	PROSECUTION
01/24/2001	<u>Drawings</u>	PROSECUTION
01/24/2001	<u>Transmittal letter</u>	PROSECUTION
01/24/2001	<u>Index of Claims</u>	PROSECUTION
01/24/2001	<u>Search information including classification, databases and other search related notes</u>	PROSECUTION
01/24/2001	<u>Issue Information including classification, examiner, name, claim, renumbering, etc.</u>	PROSECUTION
01/24/2001	<u>Drawings</u>	AS FILED
01/24/2001	<u>Abstract</u>	AS FILED
01/24/2001	<u>Claims</u>	AS FILED
01/24/2001	<u>Specification</u>	AS FILED
01/24/2001	<u>Foreign Reference</u>	PRIOR ART
01/24/2001	<u>NPL Documents</u>	PRIOR ART
01/24/2001	<u>Preliminary Amendment</u>	AS FILED
01/24/2001	<u>Transmittal letter</u>	AS FILED
	<u>Applicant Arguments or Remarks Made in an</u>	

01/24/2001	Amendment
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PROSECUTION

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,004	01/24/2001	David Smith	S1022/8602	3814

7590 06/29/2004
James H. Morris
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210



EXAMINER
TO, BAOQUOC N

ART UNIT	PAPER NUMBER
2172	14

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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DOCKET NO: S1022.80602US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David SMITH
Serial No: 09/769,004
Filed: January 24, 2001
For: DESIGN FLOW CHECKER

Examiner: Baoquoc N. To
Art Unit: 2172 Confirmation No: 3814

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATUS INQUIRY

Sir/Madam:

Applicant hereby inquires as to the status of the above-identified patent application. There has been no communication from the Patent Office since Applicant filed an amendment on April 5, 2004.

To date Applicant has received no new Office Action. Please advise.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

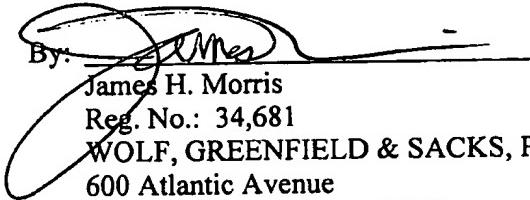
I hereby certify that this document is being placed in the United States mail with first-class postage attached, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 18, 2005.

Shail Disoree

Attorney Docket No.: S1022.80602US00

Respectfully submitted,

David Smith, Applicant

By: 
James H. Morris
Reg. No.: 34,681
WOLF, GREENFIELD & SACKS, P.C.
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,004	01/24/2001	David Smith	S1022/8602	1500 3814
7590	05/20/2005	James H. Morris Wolf, Greenfield & Sacks, P.C. 600 Atlantic Avenue Boston, MA 02210		EXAMINER TO, BAOQUOC N ART UNIT 2162 PAPER NUMBER



DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Confirmation	<input type="checkbox"/>	Initials
Docketing	<input checked="" type="checkbox"/>	la
06/20/05		

C44M/LEA

DOCKETED
MAY 26 2005

Notice of Abandonment		Application No.	Applicant(s)
		09/769,004	SMITH, DAVID
		Examiner	Art Unit
		Baoquoc N. To	2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. Applicant's failure to timely file a proper reply to the Office letter mailed on 29 June 2004.
 - (a) A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) No reply has been received.

2. Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) The issue fee and publication fee, if applicable, has not been received.

3. Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) No corrected drawings have been received.

4. The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. The reason(s) below:

The Final Office Action mailed on 06/29/2004 with the corrected address of James H. Morris (Wolf, Greenfield & Sacks, P.C.) Boston, MA 02210, however, the mail has returned back to the Patent Office on 07/16/2004. No reply has been received.

[Signature]
JEAN M CORNELIUS
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Docket Log

6/3/2005



Parties When Received	Date Type	Date Received	Case Number	Mailing Date	Email	Fax	System
	318-Jan-2001	S1022.80602US00		12-Jan-2001	<input type="checkbox"/>	<input type="checkbox"/>	1
	116-Mar-2001	S1022.80602US00		09-Mar-2001	<input type="checkbox"/>	<input type="checkbox"/>	1
	316-Mar-2001	S1022.80602US00		09-Mar-2001	<input type="checkbox"/>	<input type="checkbox"/>	1
	323-May-2001	S1022.80602US00		16-May-2001	<input type="checkbox"/>	<input type="checkbox"/>	1
	318-Jun-2001	S1022.80602US00		13-Jun-2001	<input type="checkbox"/>	<input type="checkbox"/>	1
	326-Jul-2002	S1022.80602US00		23-Jul-2002	<input type="checkbox"/>	<input type="checkbox"/>	1
	330-Dec-2002	S1022.80602US00		20-Dec-2002	<input type="checkbox"/>	<input type="checkbox"/>	1
	308-Dec-2003	S1022.80602US00		03-Dec-2003	<input type="checkbox"/>	<input type="checkbox"/>	1
	323-May-2005	S1022.80602US00		20-May-2005	<input type="checkbox"/>	<input type="checkbox"/>	1

Docket Log

6/3/2005

CaseNumber	Resp. Parties	OldMailRecipient	Country	SubCase	OldAtty2	LogItemID	Current Parties
S1022.80602	JHM		US	00	LEA		56515
S1022.80602	JHM		US	00	LEA		60359
S1022.80602	JHM		US	00	LEA		60360
S1022.80602	JHM		US	00	LEA		64542
S1022.80602	JHM		US	00	LEA		66126
S1022.80602	JHM		US	00	LEA		91124
S1022.80602	JHM		US	00	LEA		100060
S1022.80602	JHM		US	00	LEA		116834
S1022.80602	JHM		US	00	SJG		140423

Item Description	Resp. Parties	MailRecipient	Responsible	Remarks	Added By:	User ID:	Date Created:
JH-M		SJG			Iross	Iross	27-Sep-2003
JH-M		SJG			Iross	Iross	27-Sep-2003
JH-M		SJG			Iross	Iross	27-Sep-2003
JH-M		SJG			Iross	Iross	27-Sep-2003
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JH-M		SJG			Iross	Iross	27-Sep-2003
JH-M		SJG			Iross	Iross	27-Sep-2003
JH-M		SJG			Iross	Iross	27-Sep-2003
JH-M		SJG			Ioss	stowne	08-Dec-2003
JH-M		SJG			Ioss	stowne	23-May-2005

Last Update:	Status	Disposition
27-Sep-2003	Pending	
08-Dec-2003	Pending	
23-May-2005	Pending	



ATTORNEY'S DOCKET NO.: S1022.80602US00

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Art Unit: 2172

Confirmation No. 3814

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

Transmitted herewith for filing is/are the following document(s):

- Request to Withdraw the Holding of Abandonment
- PAIR Printouts: Page 1 of OX; Envelope, Status Inquiry
- Docket Log
- Copy of Notice of Abandonment
- Return Post Card

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned collect at (617) 646-8000, Boston, Massachusetts.

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